

010188

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In Re Application of:) For: METHOD AND APPARATUS FOR
Wolfe, et al.) PROVIDING VIRTUAL CAPACITY TO A
) PROVIDER OF SERVICES
)
Serial No.: 10/000,247)
) Group Art Unit: 3623
Filed: October 29, 2001)

OCT 13 2005

ELECTION

Commissioner of Patents
Alexandria, VA 22313

Attention: Romain Jeanty, Examiner

Dear Sir:

This is in response to the Office Action dated September 13, 2005.

In his office action, as understood, the examiner has expressed a requirement for restriction alleging a number of patentably distinct species of the invention, apparently contained in various dependent claims that have been presented.

I hereby certify that this correspondence is being via facsimile to the Commissioner of Patents and Trademarks, Alexandria, VA 22313, on:

October 13, 2005

(Date of Deposit)

Victoria Pacey

(Name of Person Making Deposit)

(Signature)

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As understood, the examiner has alleged that
Group a) claims 5 and 41 represent distinct species, of generic claim 1,
Group b) claim 51 is a distinct species, apparently standing by itself, claim 50 being generic (which depends from independent claim 1),
Group c) claims 53 – 55 and 62 represent distinct species, claim 52 being generic,
Group d) claim 58 is a distinct species, apparently standing by itself, claim 57 being generic (which depends from independent claim 1),
Group e) claim 60 is a distinct species, apparently standing by itself, claim 56 being generic (which depends from independent claim 1),

As understood, the examiner is apparently alleging each of the claims in Groups a) – e) is a species of the element of the independent claim from which they depend, and for which it is, by definition, a limitation, although Groups b), d) and e) are apparently considered to be species of themselves.

To constitute a complete response to the best understanding of applicant's attorney, the following alleged species are elected if no generic claim is held to be allowable:

- Group a) claim 5
- Group b) claim 51
- Group c) claim 53
- Group d) claim 58
- Group e) claim 60.

This election is made with traverse. The species are not distinct, since they are all in a class of dependent claims depending from the same, single independent claim 1, and, by definition, represent limitations of the elements stated therein. Moreover, it is a fundamental matter that by definition, items cannot be a species of themselves, as apparently alleged with respect to claims in Groups b), d) and e).

It is therefore respectfully requested that this restriction requirement be withdrawn, and the case be properly examined.

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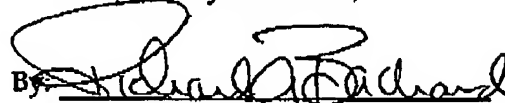
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The Commissioner is hereby further authorized to charge payment of any additional fees which may be required, or credit any overpayment, to Deposit Account No. 17 - 0026. A duplicate of this sheet is enclosed.

In light of the foregoing, the Examiner's reconsideration of this application with a view toward allowance is respectfully requested. The Examiner is invited to call the undersigned agent if a telephone call could help solve any remaining items.

Dated: October 13, 2005

Respectfully submitted,

By 

Richard A. Bachand
Attorney for Applicant
Registration No. 25,107

QUALCOMM Incorporated
5775 Morehouse Drive
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DATE: 10/13/05

TO: Amendment
Commissioner for Patents

ATTN: Examiner: Romain Jeanty
Art Unit: 3623

FAX NUMBER: (571) 273-8300

FROM: Richard A. Bachand, Attorney for Applicant
Registration No. 25,107

Total Number of Pages Sent: 5 (including this transmittal cover sheet)

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ATTORNEY DOCKET NO.: 010188

ENCLOSED ARE:

- Amendment (3 pages)
- Transmittal (in duplicate)

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APPLICANT: Wolfe, et al.

ASSIGNEE: QUALCOMM Incorporated

SERIAL NO.: 10/000,247

FILED: October 29, 2001

FOR: METHOD AND APPARATUS FOR PROVIDING VIRTUAL CAPACITY TO A PROVIDER OF SERVICES

Please contact Victoria J. Pacey at (858) 651-3411 if all pages do not transmit.

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AMENDMENT TRANSMITTAL FORM

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450Customer No.: 23696
Attorney Docket No.: 010188
In Re Application of: Wolfe, et al.
Serial Number: 10/000,247
Filed: October 29, 2001
Examiner: Romain Jeanty
Group Art Unit: 3623RECEIVED
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OCT 13 2005

Dear Sir:

Transmitted herewith for filing is a Response to Office Action in the above identified application.

CLAIMS	(a) Number Remaining After Amendment	(b) Highest Number Previously Paid For	(c) Extra Claims	Large Entity Fee	Fee Paid	
Total*	20	40	0	x \$50 =	\$0	
Independent**	4	6	0	x \$200 =	\$0	
Multiple Dependent Claim(s): <input type="checkbox"/> Yes <input type="checkbox"/> No				\$360	\$	
EXTENSION FEES				<input type="checkbox"/> One Month	\$120	\$
				<input type="checkbox"/> Two Months	\$450	\$
				<input type="checkbox"/> Three Months	\$1020	\$
TERMINAL DISCLAIMER				\$130	\$	
				TOTAL FEE	\$	

*If the number in column a is less than 20, enter 0 in column c.

**If the number in column a is less than 3, enter 0 in column c.

4. ☐ Fee check in the amount of \$_____ is enclosed to pay for any claim and/or extension fees.
5. ☐ Please charge Deposit Account No. 17-0026 of QUALCOMM Incorporated the amount of \$_____.
The Commissioner is hereby authorized to charge payment of any additional fees that may be required, or credit any overpayment to said Deposit Account No. 17-0026. A duplicate of this sheet is enclosed for fee processing.
6. ☒ The Commissioner is further hereby authorized to charge to said Deposit Account No. 17-0026, pursuant to 37 CFR 1.25(b), any fee whatsoever which may become properly due or payable, as set forth in 37 CFR 1.16 to 37 CFR 1.18 inclusive, for the entire pendency of this application without specific additional authorization.

Date: October 13, 2005

Signature: Richard A. Bachand, Reg. No. 25,107
Phone No. (858) 845-8503QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
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CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

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- deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

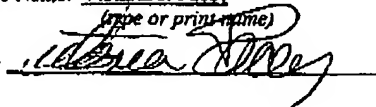
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Date: _____

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- transmitted by facsimile to the Patent and Trademark Office.

Depositor's Name: Victoria J. Pacey

Signature: 

(TRANSAMD.VER1.13-04/30/04)